

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI

UNITED STATES OF AMERICA,

Plaintiff,

v.

Docket No. _____
(to be supplied by Clerk)

MICHAEL MC NAIR

Full Name (under which you were convicted)

46485-044

Prisoner Number

USP MARION

Place of Confinement,

Movant.

MOTION UNDER 28 U.S.C. § 2255 TO VACATE, SET ASIDE, OR CORRECT A SENTENCE
BY A PERSON IN FEDERAL CUSTODY

I. SUBJECT OF THIS PETITION

A. Name and location of the court that entered the judgment of conviction that you are challenging

The United STATES DISTRICT COURT EASTERN
DISTRICT OF MISSOURI

B. Criminal docket or case number 1:16CR-00134-SNLJ

C. Date of the judgment of conviction 5-15-2018

D. Date of sentencing 5-15-2018

E. Length of sentence 20 month

F. Nature of crime (all counts)

G. What was your plea? (Check one)

☐

Not guilty

☒

Guilty

☐

Insanity plea

☐

Nolo contendere (no contest)

If you entered a guilty plea to one count or charge and a not guilty plea to another count or charge, what did you plead guilty to and what did you plead not guilty to?

FELON IN POSSESSION OF AMMUNITION

H. If you went to trial, what kind of trial did you have? (Check one)

☐

Jury

☒

Judge only

I. Did you testify at a pretrial hearing, trial, or a post-trial hearing?

☐

Yes

☒

No

If yes, state the type(s) of hearing or proceeding

J. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at the same time?

☐

Yes

☒

No

SUBJECT OF THIS PETITION - continued

K. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging?

☐ Yes

☒ No

II. DIRECT APPEAL OF CONVICTION

A. Did you appeal the judgment of conviction?

☐ Yes

☒ No

If yes, attach the decision(s) that resolved your appeal and answer the following questions:

1. Name of court of appeals _____

2. Date of filing appeal _____

3. Grounds raised _____

4. Result _____

5. Date _____

B. Did you file a petition for certiorari in the United States Supreme Court?

☐ Yes

☒ No

If yes, attach the decision(s) that resolved your petition for certiorari and answer the following questions:

1. Date of filing petition for certiorari _____

2. Grounds raised _____

3. Result _____

4. Date _____

III. POST-CONVICTION RELIEF OTHER THAN DIRECT APPEAL

- A. Other than the appeals listed above in Section II, have you previously filed any other federal petitions, applications, or motions concerning the federal judgment that you are now challenging?

☐ Yes ☒ No

If yes, attach the decision(s) that resolved your application for federal post-conviction relief and answer the following questions:

1. Name of court _____

2. Docket or case number _____

3. Date of filing _____

4. Type of petition, application, or motion filed _____

5. Grounds raised _____

6. Did you receive a hearing where evidence was given on your petition, application, or motion?

☐ Yes ☒ No

7. Result _____

8. Date _____

9. Did you appeal your first federal petition, application, or motion to a federal appellate court?

☐ Yes ☒ No

10. If you did not appeal, explain why not:

My Lawyer told me I didn't have to appeal
He would take care of my issues concerning
my sentencing if need be He would file
the 2255 about my issue

- B. If you filed a second federal petition, application, or motion, attach the decision and answer the following questions:

POST-CONVICTION RELIEF OTHER THAN APPEAL - continued

1. Name of court _____
2. Docket or case number _____
3. Date of filing _____
4. Type of petition, application, or motion filed _____
5. Grounds raised _____

6. Did you receive a hearing where evidence was given on your petition, application, or motion?

☐ Yes ☒ No

7. Result _____

8. Date _____

9. Did you appeal your second petition, application, or motion to a federal appellate court?

☐ Yes ☒ No

10. If you did not appeal, explain why not:

My lawyer told me this was not necessary
And that my time would be ran concurrently
and all my time was counting if need be
He would file the 225J

- C. If you filed a third federal petition, application, or motion, attach the decision and answer the following questions:

1. Name of court _____
2. Docket or case number _____
3. Date of filing _____
4. Type of petition, application or motion filed _____

POST-CONVICTION RELIEF OTHER THAN APPEAL - continued

5. Grounds raised _____

6. Did you receive a hearing where evidence was given on your petition, application, or motion?
☐ Yes ☒ No
7. Result _____
8. Date _____
9. Did you appeal your third petition, application, or motion to a federal appellate court?
☐ Yes ☒ No
10. If you did not appeal, explain why not:

My Attorney told me I did not have to
He would take care of what needed to
be done in Filing A 225J

IV. GROUNDS FOR RELIEF

For this motion, state every ground supporting your claim that you are being held in violation of the Constitution, laws, or treaties of the United States. If you fail to do so, you may be prevented from presenting additional grounds at a later date.

Attach additional pages if you have more than four grounds. State the facts supporting each ground.

Ground One I was told that all my time was counting
and that all time in Federal Hold overs
count and cases would be ran in together

Supporting FACTS (Briefly summarize the facts without citing cases or law.)

My Lawyer let me sit in Federal Hold over from
Jan 4 2017 to May 31, 2018 He also told

GROUND FOR RELIEF - continued

me that I WAS his First FEDERAL CASE AND that He was new to the FEDERAL SYSTEM DO to All the mistakes that my LAWYER MADE ON his First FEDERAL CASE I ASKING FOR Help in this MATTER I WAS prepared to take My CASE to TRIAL AND WAS CONVINCED that things would go in OUR FAVOR if I pled guilty that my time would be RAN together and my time in Federal hold over WAS COUNTING

Ground Two I CONTACTED HIM REPEATEDLY AND ALSO MY FAMILY He tolded me it would cost me and I could write the THE JUDGE AND get this TAKEN CARE OF without Being charged
Supporting FACTS (Briefly summarize the facts without citing cases or law.)

I wrote my LAWYER AND THE JUDGE ABOUT my time AFTER contacting my LAWYER OVER AND OVER AGAIN AND. Due to this COVID 19 PANDEMIC time HAS PASS AND NOW I HAVE NO choice BUT TO RESPECTFULLY ASK the courts FOR Help in this MATTER by CONSIDERING this 225J
Thank you

GROUND FOR RELIEF - continued

Ground Three I Feel my Rights has BEEN violated AND I
HAVE BEEN MISLEAD

Supporting FACTS (Briefly summarize the facts without citing cases or law.)

I SAT IN A FEDERAL HOLDEN OVER ALMOST TWO YEARS
FOR A BULLET CHANGE THINKING MY TIME WAS BEING COUNTED
MY LAWYER TOLD ME TO JUST SIT HE WOULD MAKE SURE
I WOULD GET TREATED FAIRLY AND MY CASE WOULD BE
RAN TOGETHER SO IT WOULD COUNT

Ground Four _____

Supporting FACTS (Briefly summarize the facts without citing cases or law.)

GROUND FOR RELIEF - continued

V. REPRESENTATION

Give the name and address of each attorney who represented you in the following:

1. At preliminary hearing STEPHEN C WILSON
2907 INDEPENDENCE SUITE C CAPE GIRARDEAU, MO 63703
2. At arraignment and plea hearing STEPHEN C WILSON
2907 INDEPENDENCE SUITE C CAPE GIRARDEAU, MO 63703
3. At trial _____
4. At sentencing STEPHEN C WILSON
2907 INDEPENDENCE SUITE C CAPE GIRARDEAU, MO 63703
5. On direct appeal _____
6. In any federal post-conviction proceeding _____
7. On appeal from any ruling against you in a federal post-conviction proceeding _____

VI. REQUEST FOR RELIEF

State exactly what you want the court to do for you.

I want my time to RUN CONCURRENTLY LIKE I
WAS TOLDED IT WOULD AND ALL THE TIME I HAVE
DOVE BE COUNTED

VII. DECLARATION UNDER PENALTY OF PERJURY

I, the undersigned, hereby declare under penalty of perjury that the foregoing information is true and correct.

Signed this September day of 17, 20 20.

Michael M. Mui
Signature of Movant

(Signature of lawyer, if any)

If you are signing the motion and are not the movant, state your relationship to the movant and explain why the movant is not signing this motion.

VIII. CERTIFICATE OF INMATE MAILING - Optional

If you deposit your motion under 28 U.S.C. § 2255 to vacate, set aside, or correct your sentence in your prison/institutional/jail mailing system and attach first-class postage pre-paid, and complete and sign this statement, you will establish the filing date as the date of deposit in that mailing system.

I, the undersigned, hereby declare under penalty of perjury that I placed this motion to vacate, set aside or correct federal sentence under 28 U.S.C. § 2255 in the prison/institutional/jail mailing system with a prepaid, first-class postage on September 17 2020
(month, day, year)

Signed this September day of 17, 2020

Michael Mc Mini

Signature of Movant